



Senate

General Assembly

File No. 100

February Session, 2006

Substitute Senate Bill No. 176

Senate, March 23, 2006

The Committee on General Law reported through SEN. COLAPIETRO of the 31st Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE REAL ESTATE COMMISSION.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (f) of section 20-314 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective from*
3 *passage*):

4 (f) All licenses issued under the provisions of this chapter shall
5 expire annually. At the time of application for a real estate broker's
6 license, there shall be paid to the commission, for each individual
7 applicant and for each proposed active member or officer of a firm,
8 partnership, association or corporation, the sum of four hundred fifty
9 dollars, and for the annual renewal thereof, the sum of three hundred
10 dollars and for a real estate salesperson's license two hundred
11 twenty-five dollars and for the annual renewal thereof the sum of two
12 hundred twenty-five dollars. Three dollars of each such annual
13 renewal fee shall be payable to the Real Estate Guaranty Fund
14 established pursuant to section 20-324a. If a license is not issued, the
15 fee shall be returned. A real estate broker's license issued to any
16 partnership, association or corporation shall entitle the individual

17 designated in the application, as provided in section 20-312, as
18 amended, upon compliance with the terms of this chapter, but without
19 the payment of any further fee, to perform all of the acts of a real estate
20 broker under this chapter on behalf of such partnership, association or
21 corporation. Any license which expires and is not renewed pursuant to
22 this subsection may be reinstated by the commission, if, not later than
23 two years after the date of expiration, the former licensee pays to the
24 commission for each real estate broker's license the sum of three
25 hundred dollars and for each real estate salesperson's license the sum
26 of two hundred twenty-five dollars for each year or fraction thereof
27 from the date of expiration of the previous license to the date of
28 payment for reinstatement, except that any licensee whose license
29 expired after such licensee entered military service shall be reinstated
30 without payment of any fee if an application for reinstatement is filed
31 with the commission within two years after the date of expiration.
32 [Any such reinstated license shall expire on the next succeeding April
33 thirtieth.]

34 Sec. 2. (NEW) (*Effective from passage*) The following records or
35 documents relating to a residential or commercial real estate
36 transaction shall be kept by a real estate broker for a period of not less
37 than three calendar years after the transaction closes, all funds are
38 disbursed or the agreement and any written extension expires, as
39 applicable: (1) The original or true copy of all accepted, countered or
40 rejected offers, (2) the listing or buyer brokerage representation
41 agreements and consent to dual agency and designated agency forms,
42 (3) transaction files and those contents required pursuant to chapter
43 392 of the general statutes, (4) escrow ledger records, and (5) all escrow
44 account reconciliation records.

45 Sec. 3. Section 20-314a of the 2006 supplement to the general statutes
46 is repealed and the following is substituted in lieu thereof (*Effective*
47 *from passage*):

48 (a) The Commissioner of Consumer Protection, with the advice and
49 assistance of the commission, may adopt regulations, in accordance

50 with chapter 54, relating to the approval of schools offering courses in
51 real estate principles and practice and related subjects, or real estate
52 student intern programs, the content of such courses or programs and
53 the advertising to the public of the services of such schools. Such
54 regulations [shall not] may require (1) approval of instructors at such
55 schools, or (2) a course to be conducted in a classroom location
56 approved for such use by a local fire marshal provided the course is
57 conducted in a hotel, restaurant or other public building or a place of
58 public assembly, as defined in section 19-13-B105 of the regulations of
59 Connecticut state agencies.

60 (b) The commission may exempt any applicant for a real estate
61 broker's license from the requirements concerning experience under
62 the provisions of subsection (d) of section 20-314, if the commission
63 determines that such applicant is unable to meet such requirements
64 solely because such applicant has been subjected to discrimination
65 based on race, creed or color, which discrimination interfered with
66 such applicant's ability to meet such requirements.

67 Sec. 4. Section 20-320 of the general statutes is repealed and the
68 following is substituted in lieu thereof (*Effective from passage*):

69 The Department of Consumer Protection may, upon the request of
70 the commission or upon the verified complaint in writing of any
71 person, if such complaint, or such complaint together with evidence,
72 documentary or otherwise, presented in connection with such
73 complaint, shall make out a prima facie case, investigate the actions of
74 any real estate broker or real estate salesperson or any person who
75 assumes to act in any of such capacities within this state. The
76 commission may temporarily suspend or permanently revoke any
77 license issued under the provisions of this chapter and, in addition to
78 or in lieu of such suspension or revocation, may, in its discretion,
79 impose a fine of not more than two thousand dollars per violation at
80 any time when, after proceedings as provided in section 20-321, the
81 commission finds that the licensee has by false or fraudulent
82 misrepresentation obtained a license or that the licensee is guilty of

83 any of the following: (1) Making any material misrepresentation; (2)
84 making any false promise of a character likely to influence, persuade
85 or induce; (3) acting as an agent for more than one party in a
86 transaction without the knowledge of all parties for whom the licensee
87 acts; (4) representing or attempting to represent a real estate broker
88 other than the licensee's employer or the broker with whom the
89 licensee is affiliated, without the express knowledge and consent of the
90 licensee's employer or affiliated broker; (5) failing, within a reasonable
91 time, to account for or remit any moneys coming into the licensee's
92 possession which belong to others; (6) entering into an exclusive listing
93 contract or buyer agency contract which contains a fixed termination
94 date if such contract also provides for an automatic continuation of the
95 period of such contract beyond such date; (7) failing to deliver
96 immediately a copy of any instrument to any party or parties
97 executing the instrument, where such instrument has been prepared
98 by the licensee or under the licensee's supervision and where such
99 instrument relates to the employment of the licensee or to any matters
100 pertaining to the consummation of a lease, or the purchase, sale or
101 exchange of real property or any other type of real estate transaction in
102 which the licensee may participate as a broker or a salesperson; (8)
103 conviction in a court of competent jurisdiction of forgery,
104 embezzlement, obtaining money under false pretenses, larceny,
105 extortion, conspiracy to defraud, or other like offense or offenses,
106 provided suspension or revocation under this subdivision shall be
107 subject to the provisions of section 46a-80; (9) collecting compensation
108 in advance of services to be performed and failing, upon demand of
109 the person paying the compensation or the commission, to render an
110 accounting of the use of such money; (10) commingling funds of others
111 with the licensee's own, or failing to keep funds of others in an escrow
112 or trustee account; (11) any act or conduct which constitutes dishonest,
113 fraudulent or improper dealings; (12) failing to provide the disclosures
114 required by section 20-325c; (13) a violation of any provision of this
115 chapter or any regulation adopted under this chapter. Any fine
116 collected pursuant to this section shall be deposited in the Real Estate
117 Guaranty Fund established pursuant to section 20-324a.

118 Sec. 5. Section 20-325d of the general statutes is repealed and the
 119 following is substituted in lieu thereof (*Effective from passage*):

120 On and after January 1, 1995, a real estate broker or real estate
 121 salesperson licensed under this chapter, who is acting as an agent of
 122 the seller or lessor, shall make a written disclosure of whom he or she
 123 represents in a real estate transaction to prospective purchasers and
 124 lessees at the beginning of the first personal meeting concerning the
 125 prospective purchaser's or lessee's specific needs, unless such
 126 prospective purchaser or lessee is represented by another real estate
 127 broker or real estate salesperson licensed under this chapter. Such
 128 disclosure shall be signed by the prospective purchaser or lessee and
 129 attached to any offer or agreement to purchase or lease signed by the
 130 prospective purchaser or lessee. Whenever any real estate broker or
 131 real estate salesperson intends to act as an agent for the prospective
 132 purchaser or lessee, he or she shall disclose such intended
 133 representation to the seller or lessor at the beginning of the first
 134 personal meeting with the seller or lessor concerning the seller's or
 135 lessor's real property, unless such seller or lessor is represented by
 136 another real estate broker or real estate salesperson licensed under this
 137 chapter. On or before January 1, 1995, the Commissioner of Consumer
 138 Protection, shall adopt such regulations in accordance with chapter 54
 139 as the commissioner deems necessary to carry out the provisions of
 140 this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	20-314(f)
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	20-314a
Sec. 4	<i>from passage</i>	20-320
Sec. 5	<i>from passage</i>	20-325d

GL *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill makes various changes to real estate licensing law, none of which are estimated to have a fiscal impact.

The Out Years

There is no fiscal impact in the out years.

OLR Bill Analysis
sSB 176**AN ACT CONCERNING THE REAL ESTATE COMMISSION.****SUMMARY:**

This bill makes four changes concerning real estate licensing law. One, it requires real estate brokers to keep certain records for at least three years about each residential or commercial real estate transaction. Two, it authorizes the consumer protection commissioner to provide for the approval of instructors in regulations he adopts to approve schools offering courses in real estate principles and practices. The law currently prohibits such a provision. Three, it specifies that the \$2,000 civil fine that the Real Estate Commission may impose for violations of the real estate licensing law may be imposed for each violation. Four, it removes the statutory expiration date of reinstated real estate broker and salesperson licenses, thus making the broker license expire on March 31 and the salesperson license expire on May 31.

EFFECTIVE DATE: Upon passage

TRANSACTION RECORDS

The bill requires real estate brokers to keep for at least three calendar years the following records or documents relating to residential or commercial real estate transactions: (1) the original or accurate copy of all accepted, countered, or rejected offers; (2) the listing or buyer brokerage representation agreements and consent to dual agency and designated agency forms; (3) transaction files and those required by real estate licensing law; (4) escrow ledger records; and (5) all escrow account reconciliation records. The three-year retention period begins after the transaction closes, all funds are disbursed, or the agreement, including a written extension, expires, as

applicable.

REINSTATED LICENSE EXPIRATION

The bill removes the April 30th statutorily-set renewal date for reinstated real estate broker and salesperson licenses. The law, unchanged by the bill, requires the Department of Consumer Protection to adopt regulations setting a staggered schedule of renewal dates for all licenses, certificates, registrations, or permits it issues (CGS § 21a-10). Real estate broker and sales person licenses expire on March 31 and May 31, respectively (Conn. Agencies Reg. § 21a-10-1). The law allows the Real Estate Commission to reinstate a license that has not been renewed for up to two years after the date of expiration.

BACKGROUND

Civil Fine

The Real Estate Commission may impose a civil penalty on a licensee for (1) obtaining a license through misrepresentation; (2) making a material misrepresentation; (3) making a false promise of a character likely to influence, persuade, or induce; (4) acting as an agent for more than one party in a transaction without the knowledge of all parties to the transaction; (5) representing a broker other than one's employer; (6) failing to account for or remit money in the licensee's possession belonging to another in a reasonable time; (7) entering into an exclusive listing contract with a fixed termination date that also provides for automatic continuation; (8) failing to immediately deliver a copy of a document prepared by the licensee that relates to the licensee's employment, matters relating to the consummation of a lease, or a real estate transaction; (9) conviction of forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or a similar offense; (10) collecting compensation before providing services and failing to give an accounting of the use of the money when asked; (11) commingling client and personal funds; (12) any act constituting dishonest, fraudulent, or improper dealings; (13) failing to provide required disclosures when being paid in connection with the sale of a residence

and to help the buyer obtain a first mortgage; or (14) violating any provision of the licensing statute or regulation.

RELATED BILL

SB 616, favorably reported by the Insurance and Real Estate Committee, requires real estate brokers to keep certain records for at least seven years. The record retention period in SB 616 appears to conflict with SB 176.

COMMITTEE ACTION

General Law Committee

Joint Favorable Substitute

Yea 15 Nay 0 (03/09/2006)